Supreme Court of the United States.

No. 180.—October Term, 1903.

State of Missouri, at the relation of William Preston Hill, Plaintiff in Error, *vs.* Alexander M. Dockery, Sam. B. Cook, B. P. Williams, Albert O. Allen, Edward C. Crow and The State Board of Equalization. } In error to the Supreme Court of the State of Missouri.

[November 16, 1903.]

Mr. Justice Holmes delivered the opinion of the Court.

This is a writ of error to the Supreme Court of Missouri, upon a judgment quashing an alternative writ of mandamus to the State board of equalization. The petition alleges that the board, instead of assessing the total actual cash value of the taxable property of certain railroad, bridge, telephone, telegraph and express companies, made pretended, fraudulent inadequate and not uniform assessments upon such property at valuations varying from about a quarter to forty-eight per cent of the actual value, except that of the express companies, which they did not assess at all. It alleges that in this way the petitioner will be deprived of his property without due process of law and will be denied the equal protection of the laws, contrary to the Fourteenth Amendment of the Constitution of the United States. The motion to quash denied the jurisdiction of the Supreme Court of Missouri to issue the writ, and also the sufficiency of the grounds on which the writ was allowed. The court sustained the motion without an opinion or statement of reasons.

For all that appears, the court may have quashed the writ on grounds of local practice. But if this consideration be laid on one side, it is impossible to say that the board of equalization has not acted with regard to those companies which it has assessed. It has laid a substantial tax upon them. Its judgment is final under the Missouri constitution and statutes. Mo. Const. Art. X, § 18; Rev. Stat. §§ 9344, 9356, Stat. 1901, p. 232. If, nevertheless, we assume that mandamus would lie upon a clear case of fraud adequately alleged and proved, *State Board of Equalization* v. *People*, 191 Ill. 528, 539, it would be a strong thing to revise the judgment of the board on the strength of allegations of undervaluations, and the single adjective "fraudulent" without more specific allegations of fact. *State* v. *Western Union Telegraph Co.*, 165 Mo. 502, 516, 517; *State* v. *Talty*, 166

Mo. 529, 560; *Manchester* v. *Furnald*, 71 N. H. 153, 158; *Knight* v. *Thomas*, 93 Maine, 494; *Maish* v. *Arizona*, 164 U. S. 599, 611; *Pittsburg, Cincinnati, Chicago & St. Louis Ry. Co.* v. *Backus*, 154 U. S. 421, 434, 438. See *Fogg* v. *Blair*, 139 U. S. 118, 127.

However this may be, the petitioner admitted at the argument that his own tax was correct, and that he would have had no case under the Fourteenth Amendment if the companies had been exempted altogether. *Magoun* v. *Illinois Trust & Savings Bank*, 170 U. S. 283, 293–295; *Connolly* v. *Union Sewer Pipe Co.*, 184 U. S. 540, 562. But his rights under that amendment turn on the power of the State, no matter by what organ it acts. *Virginia* v. *Rives*, 100 U. S. 313, 318. Therefore, if the Supreme Court of the State construed the statutes as exempting express companies from this tax and substituting another, as it is argued on behalf of the defendants in error that the statutes do, the petitioner cannot complain here. For the legislature could exempt them, and the question whether it has done so or not is for the State courts to decide in their construction of its acts. Furthermore, if the State could grant a total exemption it could grant a partial exemption, and if it has done so, *de facto*, through its officers, the petitioner cannot come here on an allegation that the officers acted as they did without the authority of the State. That again is for the State court to decide. The petitioner has no case under the Constitution of the United States, and nothing else is open. This is a writ of error to a State court, so that questions under the State constitution and laws cannot be considered as they might be on error to a subordinate court of the United States.

Judgment affirmed.

True copy.

Test:

Clerk Supreme Court, U. S.